

AN ACT

relating to certain protective orders and agreements involving families.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 6.405, Family Code, is amended to read as follows:

Sec. 6.405. PROTECTIVE ORDER AND RELATED ORDERS. (a) The petition in a suit for dissolution of a marriage must state whether, in regard to a party to the suit or a child of a party to the suit:

(1) there is in effect:

(A) a protective order under Title 4;

(B) a protective order under Chapter 7A, Code of Criminal Procedure; or

(C) an order for emergency protection under Article 17.292, Code of Criminal Procedure; ~~is in effect~~ or

(2) ~~if~~ an application for an ~~a protective~~ order described by Subdivision (1) is pending ~~with regard to the parties to the suit~~.

(b) The petitioner shall attach to the petition a copy of each ~~protective~~ order described by Subsection (a)(1) ~~issued under Title 4~~ in which a party ~~one of the parties~~ to the suit or the child of a party to the suit was the applicant or victim of the conduct alleged in the application or order and the other party was the respondent or defendant of an action regarding the conduct

1 alleged in the application or order without regard to the date of
2 the order. If a copy of the [~~protective~~] order is not available at
3 the time of filing, the petition must state that a copy of the order
4 will be filed with the court before any hearing.

5 SECTION 2. Section 34.002(a), Family Code, is amended to
6 read as follows:

7 (a) A parent or both parents of a child may enter into an
8 authorization agreement with a relative of the child listed in
9 Section 34.001 to authorize the relative to perform the following
10 acts in regard to the child:

11 (1) to authorize medical, dental, psychological, or
12 surgical treatment and immunization of the child, including
13 executing any consents or authorizations for the release of
14 information as required by law relating to the treatment or
15 immunization;

16 (2) to obtain and maintain health insurance coverage
17 for the child and automobile insurance coverage for the child, if
18 appropriate;

19 (3) to enroll the child in a day-care program or
20 preschool or in a public or private elementary or secondary school;

21 (4) to authorize the child to participate in
22 age-appropriate extracurricular, civic, social, or recreational
23 activities, including athletic activities;

24 (5) to authorize the child to obtain a learner's
25 permit, driver's license, or state-issued identification card;

26 (6) to authorize employment of the child; [~~and~~]

27 (7) to apply for and receive public benefits on behalf

1 of the child; and

2 (8) to obtain:

3 (A) copies or originals of state-issued personal
4 identification documents for the child, including the child's birth
5 certificate; and

6 (B) to the extent authorized under federal law,
7 copies or originals of federally issued personal identification
8 documents for the child, including the child's social security
9 card.

10 SECTION 3. Section 34.003, Family Code, is amended to read
11 as follows:

12 Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a) The
13 authorization agreement must contain:

14 (1) the following information from the relative of the
15 child to whom the parent is giving authorization:

16 (A) the name and signature of the relative;

17 (B) the relative's relationship to the child; and

18 (C) the relative's current physical address and
19 telephone number or the best way to contact the relative;

20 (2) the following information from the parent:

21 (A) the name and signature of the parent; and

22 (B) the parent's current address and telephone
23 number or the best way to contact the parent;

24 (3) the information in Subdivision (2) with respect to
25 the other parent, if applicable;

26 (4) a statement that the relative has been given
27 authorization to perform the functions listed in Section 34.002(a)

1 as a result of a voluntary action of the parent and that the
2 relative has voluntarily assumed the responsibility of performing
3 those functions;

4 (5) statements that neither the parent nor the
5 relative has knowledge that a parent, guardian, custodian, licensed
6 child-placing agency, or other authorized agency asserts any claim
7 or authority inconsistent with the authorization agreement under
8 this chapter with regard to actual physical possession or care,
9 custody, or control of the child;

10 (6) statements that:

11 (A) to the best of the parent's and relative's
12 knowledge:

13 (i) there is no court order or pending suit
14 affecting the parent-child relationship concerning the child;

15 (ii) there is no pending litigation in any
16 court concerning:

17 (a) custody, possession, or placement
18 of the child; or

19 (b) access to or visitation with the
20 child; and

21 (iii) a [~~the~~] court does not have
22 continuing jurisdiction concerning the child; or

23 (B) the court with continuing jurisdiction
24 concerning the child has given written approval for the execution
25 of the authorization agreement accompanied by the following
26 information:

27 (i) the county in which the court is

1 located;

2 (ii) the number of the court; and

3 (iii) the cause number in which the order
4 was issued or the litigation is pending;

5 (7) a statement that to the best of the parent's and
6 relative's knowledge there is no current, valid authorization
7 agreement regarding the child;

8 (8) a statement that the authorization is made in
9 conformance with this chapter;

10 (9) a statement that the parent and the relative
11 understand that each party to the authorization agreement is
12 required by law to immediately provide to each other party
13 information regarding any change in the party's address or contact
14 information;

15 (10) a statement by the parent that establishes the
16 circumstances under which the authorization agreement expires,
17 including that the authorization agreement:

18 (A) is valid until revoked;

19 (B) continues in effect after the death or during
20 any incapacity of the parent; or

21 (C) expires on a date stated in the authorization
22 agreement; and

23 (11) space for the signature and seal of a notary
24 public.

25 (b) The authorization agreement must contain the following
26 warnings and disclosures:

27 (1) that the authorization agreement is an important

1 legal document;

2 (2) that the parent and the relative must read all of
3 the warnings and disclosures before signing the authorization
4 agreement;

5 (3) that the persons signing the authorization
6 agreement are not required to consult an attorney but are advised to
7 do so;

8 (4) that the parent's rights as a parent may be
9 adversely affected by placing or leaving the parent's child with
10 another person;

11 (5) that the authorization agreement does not confer
12 on the relative the rights of a managing or possessory conservator
13 or legal guardian;

14 (6) that a parent who is a party to the authorization
15 agreement may terminate the authorization agreement and resume
16 custody, possession, care, and control of the child on demand and
17 that at any time the parent may request the return of the child;

18 (7) that failure by the relative to return the child to
19 the parent immediately on request may have criminal and civil
20 consequences;

21 (8) that, under other applicable law, the relative may
22 be liable for certain expenses relating to the child in the
23 relative's care but that the parent still retains the parental
24 obligation to support the child;

25 (9) that, in certain circumstances, the authorization
26 agreement may not be entered into without written permission of the
27 court;

1 (10) that the authorization agreement may be
2 terminated by certain court orders affecting the child;

3 (11) that the authorization agreement does not
4 supersede, invalidate, or terminate any prior authorization
5 agreement regarding the child;

6 (12) that the authorization agreement is void if a
7 prior authorization agreement regarding the child is in effect and
8 has not expired or been terminated;

9 (13) that, except as provided by Section 34.005(a-2)
10 [~~34.005(a-1)~~], the authorization agreement is void unless not later
11 than the 10th day after the date the authorization agreement is
12 signed, [+

13 [~~(A)~~] the parties mail [~~a copy of the~~
14 ~~authorization agreement by certified mail, return receipt~~
15 ~~requested, or international registered mail, return receipt~~
16 ~~requested, as applicable,~~] to a parent who was not a party to the
17 authorization agreement at the parent's last known address, if the
18 parent is living and the parent's parental rights have not been
19 terminated:

20 (A) one copy of the authorization agreement by
21 certified mail, return receipt requested, or international
22 registered mail, return receipt requested, as applicable [~~, not~~
23 ~~later than the 10th day after the date the authorization agreement~~
24 ~~is signed]~~; and

25 (B) one [~~if the parties do not receive a response~~
26 ~~from the parent who is not a party to the authorization agreement~~
27 ~~before the 20th day after the date the copy of the authorization~~

1 ~~agreement is mailed under Paragraph (A), the parties mail a second]~~
2 copy of the authorization agreement by first class mail or
3 international first class mail, as applicable~~[, to the parent not~~
4 ~~later than the 45th day after the date the authorization agreement~~
5 ~~is signed]; and~~

6 (14) that the authorization agreement does not confer
7 on a relative of the child the right to authorize the performance of
8 an abortion on the child or the administration of emergency
9 contraception to the child.

10 SECTION 4. Section 34.004(b), Family Code, is amended to
11 read as follows:

12 (b) A parent may not execute an authorization agreement
13 without a written order by the appropriate court if:

14 (1) there is a court order or pending suit affecting
15 the parent-child relationship concerning the child;

16 (2) there is pending litigation in any court
17 concerning:

18 (A) custody, possession, or placement of the
19 child; or

20 (B) access to or visitation with the child; or

21 (3) a ~~the~~ court has continuing, exclusive
22 jurisdiction over the child.

23 SECTION 5. Section 34.005, Family Code, is amended by
24 amending Subsections (a) and (a-1) and adding Subsection (a-2) to
25 read as follows:

26 (a) If both parents did not sign the authorization
27 agreement, not later than the 10th day after the date the

1 authorization agreement is executed the parties shall mail [~~a copy~~
2 ~~of the executed authorization agreement by certified mail, return~~
3 ~~receipt requested, or international registered mail, return~~
4 ~~receipt requested, as applicable,~~] to the parent who was not a party
5 to the authorization agreement at the parent's last known address,
6 [~~not later than the 10th day after the date the authorization~~
7 ~~agreement is executed~~] if that parent is living and that parent's
8 parental rights have not been terminated:

9 (1) one copy of the executed authorization agreement
10 by certified mail, return receipt requested, or international
11 registered mail, return receipt requested, as applicable; and

12 (2) one [~~. If the parties do not receive a response~~
13 ~~from the parent who is not a party to the authorization agreement~~
14 ~~before the 20th day after the date the copy of the authorization~~
15 ~~agreement is mailed, the parties shall mail a second~~] copy of the
16 executed authorization agreement by first class mail or
17 international first class mail, as applicable[, ~~to the parent at~~
18 ~~the same address not later than the 45th day after the date the~~
19 ~~authorization agreement is executed~~].

20 (a-1) Except as otherwise provided by Subsection (a-2), an
21 [~~An~~] authorization agreement is void if the parties fail to comply
22 with Subsection (a) [~~this subsection~~].

23 (a-2) [~~(a-1)~~] Subsection (a) does not apply to an
24 authorization agreement if the parent who was not a party to the
25 authorization agreement:

26 (1) does not have court-ordered possession of or
27 access to the child who is the subject of the authorization

1 agreement; and

2 (2) has previously committed an act of family
3 violence, as defined by Section 71.004, or assault against the
4 parent who is a party to the authorization agreement, the child who
5 is the subject of the authorization agreement, or another child of
6 the parent who is a party to the authorization agreement, as
7 documented by one or more of the following:

8 (A) the issuance of a protective order against
9 the parent who was not a party to the authorization agreement as
10 provided under Chapter 85 or under a similar law of another state;
11 or

12 (B) the conviction of the parent who was not a
13 party to the authorization agreement of an offense under Title 5,
14 Penal Code, or of another criminal offense in this state or in
15 another state an element of which involves a violent act or
16 prohibited sexual conduct.

17 SECTION 6. Section 102.008, Family Code, is amended by
18 amending Subsection (b) and adding Subsections (c) and (d) to read
19 as follows:

20 (b) The petition must include:

21 (1) a statement that the court in which the petition is
22 filed has continuing, exclusive jurisdiction or that no court has
23 continuing jurisdiction of the suit;

24 (2) the name and date of birth of the child, except
25 that if adoption of a child is requested, the name of the child may
26 be omitted;

27 (3) the full name of the petitioner and the

1 petitioner's relationship to the child or the fact that no
2 relationship exists;

3 (4) the names of the parents, except in a suit in which
4 adoption is requested;

5 (5) the name of the managing conservator, if any, or
6 the child's custodian, if any, appointed by order of a court of
7 another state or country;

8 (6) the names of the guardians of the person and estate
9 of the child, if any;

10 (7) the names of possessory conservators or other
11 persons, if any, having possession of or access to the child under
12 an order of the court;

13 (8) the name of an alleged father of the child or a
14 statement that the identity of the father of the child is unknown;

15 (9) a full description and statement of value of all
16 property owned or possessed by the child;

17 (10) a statement describing what action the court is
18 requested to take concerning the child and the statutory grounds on
19 which the request is made; ~~and~~

20 (11) a statement as to whether, in regard to a party to
21 the suit or a child of a party to the suit:

22 (A) there is in effect:

23 (i) a protective order under Title 4;

24 (ii) a protective order under Chapter 7A,
25 Code of Criminal Procedure; or

26 (iii) an order for emergency protection
27 under Article 17.292, Code of Criminal Procedure; or

1 (B) an application for an order described by
2 Paragraph (A) is pending; and

3 (12) any other information required by this title.

4 (c) The petitioner shall attach a copy of each order
5 described by Subsection (b)(11)(A) in which a party to the suit or a
6 child of a party to the suit was the applicant or victim of the
7 conduct alleged in the application or order and the other party was
8 the respondent or defendant of an action regarding the conduct
9 alleged in the application or order without regard to the date of
10 the order. If a copy of the order is not available at the time of
11 filing, the petition must state that a copy of the order will be
12 filed with the court before any hearing.

13 (d) Notwithstanding any other provision of this section, if
14 the Title IV-D agency files a petition in a suit affecting the
15 parent-child relationship, the agency is not required to:

16 (1) include in the petition the statement described by
17 Subsection (b)(11); or

18 (2) attach copies of the documentation described by
19 Subsection (c).

20 SECTION 7. Subchapter G, Chapter 160, Family Code, is
21 amended by adding Section 160.6035 to read as follows:

22 Sec. 160.6035. CONTENTS OF PETITION; STATEMENT RELATING TO
23 CERTAIN PROTECTIVE ORDERS REQUIRED. (a) The petition in a
24 proceeding to adjudicate parentage must include a statement as to
25 whether, in regard to a party to the proceeding or a child of a party
26 to the proceeding:

27 (1) there is in effect:

1 (A) a protective order under Title 4;

2 (B) a protective order under Chapter 7A, Code of
3 Criminal Procedure; or

4 (C) an order for emergency protection under
5 Article 17.292, Code of Criminal Procedure; or

6 (2) an application for an order described by
7 Subdivision (1) is pending.

8 (b) The petitioner shall attach a copy of each order
9 described by Subsection (a)(1) in which a party to the proceeding or
10 a child of a party to the proceeding was the applicant or victim of
11 the conduct alleged in the application or order and the other party
12 was the respondent or defendant of an action regarding the conduct
13 alleged in the application or order without regard to the date of
14 the order. If a copy of the order is not available at the time of
15 filing, the petition must state that a copy of the order will be
16 filed with the court before any hearing.

17 (c) Notwithstanding any other provision of this section, if
18 the Title IV-D agency files a petition in a proceeding to adjudicate
19 parentage, the agency is not required to:

20 (1) include in the petition the statement described by
21 Subsection (a); or

22 (2) attach copies of the documentation described by
23 Subsection (b).

24 SECTION 8. Sections 6.405 and 102.008, Family Code, as
25 amended by this Act, and Section 160.6035, Family Code, as added by
26 this Act, apply only to a petition filed on or after September 1,
27 2017. A petition filed before September 1, 2017, is governed by the

1 law in effect on the date the petition was filed, and the former law
2 is continued in effect for that purpose.

3 SECTION 9. The changes in law made by this Act apply only to
4 an authorization agreement executed on or after the effective date
5 of this Act. An authorization agreement executed before that date
6 is governed by the law in effect on the date the authorization
7 agreement was executed, and the former law is continued in effect
8 for that purpose.

9 SECTION 10. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3052 was passed by the House on May 9, 2017, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3052 on May 26, 2017, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3052 was passed by the Senate, with amendments, on May 23, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor